

may be imposed by law for any act or omission of the purchasing agent or purchase clerk, or their designee, constituting a violation of law in accepting any bid without approval by the governing authority. The term "competitive written bid" shall mean a bid submitted on a bid form furnished by the buying agency or governing authority and signed by authorized personnel representing the vendor, or a bid submitted on a vendor's letterhead or identifiable bid form and signed by authorized personnel representing the vendor. Bids may be submitted by facsimile, electronic mail or other generally accepted method of information distribution. Bids submitted by electronic transmission shall not require the signature of the vendor's representative unless required by agencies or governing authorities.

(c) Bidding procedure for purchases over \$15,000.00.

(i) Publication requirement. Purchases which involve an expenditure of more than Fifteen Thousand Dollars (\$15,000.00), exclusive of freight and shipping charges may be made from the lowest and best bidder after advertising for competitive sealed bids once each week for two (2) consecutive weeks in a regular newspaper published in the county or municipality in which such agency or governing authority is located. The date as published for the bid opening shall not be less than seven (7) working days after the last published notice; however, if the purchase involves a construction project in which the estimated cost is in excess of Fifteen Thousand Dollars (\$15,000.00), such bids shall not be opened in less than fifteen (15) working days after the last notice is published and the notice for the purchase of such construction shall be published once each week for two (2) consecutive weeks. The notice of intention to let contracts or purchase equipment shall state the time and place at which bids shall be received, list the contracts to be made or types of equipment or supplies to be purchased, and, if all plans and/or specifications are not published, refer to the plans and/or specifications on file. If there is no newspaper published in the county or municipality, then such notice shall be given by posting same at the courthouse, or for municipalities at the city hall, and at two (2) other public places in the county or municipality, and also by publication once each week for two (2) consecutive weeks in some newspaper having a general circulation in the county or municipality in the above provided manner. On the same date that the notice is submitted to the newspaper for publication, the agency or governing authority involved shall mail written notice to, or provide

electronic notification to the main office of the Mississippi Contract Procurement Center that contains the same information as that in the published notice.

(ii) Bidding process amendment procedure. If all plans and/or specifications are published in the notification, then the plans and/or specifications may not be amended. If all plans and/or specifications are not published in the notification, then amendments to the plans/specifications, bid opening date, bid opening time and place may be made, provided that the agency or governing authority maintains a list of all prospective bidders who are known to have received a copy of the bid documents and all such prospective bidders are sent copies of all amendments. This notification of amendments may be made via mail, facsimile, electronic mail or other generally accepted method of information distribution. No addendum to bid specifications may be issued within two (2) working days of the time established for the receipt of bids unless such addendum also amends the bid opening to a date not less than five (5) working days after the date of the addendum.

(iii) Filing requirement. In all cases involving governing authorities, before the notice shall be published or posted, the plans or specifications for the construction or equipment being sought shall be filed with the clerk of the board of the governing authority. In addition to these requirements, a bid file shall be established which shall indicate those vendors to whom such solicitations and specifications were issued, and such file shall also contain such information as is pertinent to the bid.

(iv) Specification restrictions. Specifications pertinent to such bidding shall be written so as not to exclude comparable equipment of domestic manufacture. Provided, however, that should valid justification be presented, the Department of Finance and Administration or the board of a governing authority may approve a request for specific equipment necessary to perform a specific job. Further, such justification, when placed on the minutes of the board of a governing authority, may serve as authority for that governing authority to write specifications to require a specific item of equipment needed to perform a specific job. In addition to these

requirements, from and after July 1, 1990, vendors of relocatable classrooms and the specifications for the purchase of such relocatable classrooms published by local school boards shall meet all pertinent regulations of the State Board of Education, including prior approval of such bid by the State Department of Education.

(d) Lowest and best bid decision procedure.

(i) Decision procedure. Purchases may be made from the lowest and best bidder. In determining the lowest and best bid, freight and shipping charges shall be included. Life-cycle costing, total cost bids, warranties, guaranteed buy-back provisions and other relevant provisions may be included in the best bid calculation. All best bid procedures for state agencies must be in compliance with regulations established by the Department of Finance and Administration. If any governing authority accepts a bid other than the lowest bid actually submitted, it shall place on its minutes detailed calculations and narrative summary showing that the accepted bid was determined to be the lowest and best bid, including the dollar amount of the accepted bid and the dollar amount of the lowest bid. No agency or governing authority shall accept a bid based on items not included in the specifications.

(ii) Construction project negotiations authority. If the lowest and best bid is not more than ten percent (10%) above the amount of funds allocated for a public construction or renovation project, then the agency or governing authority shall be permitted to negotiate with the lowest bidder in order to enter into a contract for an amount not to exceed the funds allocated.

(e) Lease-purchase authorization. For the purposes of this section, the term "equipment" shall mean equipment, furniture and, if applicable, associated software and other applicable direct costs associated with the acquisition. Any lease-purchase of equipment which an agency is not required to lease-purchase under the master lease-purchase program

pursuant to Section 31-7-10 and any lease-purchase of equipment which a governing authority elects to lease-purchase may be acquired by a lease-purchase agreement under this paragraph (e). Lease-purchase financing may also be obtained from the vendor or from a third-party source after having solicited and obtained at least two (2) written competitive bids, as defined in paragraph (b) of this section, for such financing without advertising for such bids. Solicitation for the bids for financing may occur before or after acceptance of bids for the purchase of such equipment or, where no such bids for purchase are required, at anytime before the purchase thereof. No such lease-purchase agreement shall be for an annual rate of interest which is greater than the overall maximum interest rate to maturity on general obligation indebtedness permitted under Section 75-17-101, and the term of such lease-purchase agreement shall not exceed the useful life of equipment covered thereby as determined according to the upper limit of the asset depreciation range (ADR) guidelines for the Class Life Asset Depreciation Range System established by the Internal Revenue Service pursuant to the United States Internal Revenue Code and regulations thereunder as in effect on December 31, 1980, or comparable depreciation guidelines with respect to any equipment not covered by ADR guidelines. Any lease-purchase agreement entered into pursuant to this paragraph (e) may contain any of the terms and conditions which a master lease-purchase agreement may contain under the provisions of Section 31-7-10(5), and shall contain an annual allocation dependency clause substantially similar to that set forth in Section 31-7-10(8). Each agency or governing authority entering into a lease-purchase transaction pursuant to this paragraph (e) shall maintain with respect to each such lease-purchase transaction the same information as required to be maintained by the Department of Finance and Administration pursuant to Section 31-7-10(13). However, nothing contained in this section shall be construed to permit agencies to acquire items of equipment with a total acquisition cost in the aggregate of less than Ten Thousand Dollars (\$10,000.00) by a single lease-purchase transaction. All equipment, and the purchase thereof by any lessor, acquired by lease-purchase under this paragraph and all lease-purchase payments with respect thereto shall be exempt from all Mississippi sales, use and ad valorem taxes. Interest paid on any lease-purchase agreement under this section shall be exempt from State of Mississippi income taxation.

(f) Alternate bid authorization. When necessary to ensure ready availability of commodities for public works and the timely completion of public projects, no more than two (2) alternate bids may be accepted by a governing authority for commodities. No purchases may be made through use of such alternate bids procedure unless the lowest and best bidder, for

reasons beyond his control, cannot deliver the commodities contained in his bid. In that event, purchases of such commodities may be made from one (1) of the bidders whose bid was accepted as an alternate.

(g) Construction contract change authorization. In the event a determination is made by an agency or governing authority after a construction contract is let that changes or modifications to the original contract are necessary or would better serve the purpose of the agency or the governing authority, such agency or governing authority may, in its discretion, order such changes pertaining to the construction that are necessary under the circumstances without the necessity of further public bids; provided that such change shall be made in a commercially reasonable manner and shall not be made to circumvent the public purchasing statutes. In addition to any other authorized person, the architect or engineer hired by an agency or governing authority with respect to any public construction contract shall have the authority, when granted by an agency or governing authority, to authorize changes or modifications to the original contract without the necessity of prior approval of the agency or governing authority when any such change or modification is less than one percent (1%) of the total contract amount. The agency or governing authority may limit the number, manner or frequency of such emergency changes or modifications.

(h) Petroleum purchase alternative. In addition to other methods of purchasing authorized in this chapter, when any agency or governing authority shall have a need for gas, diesel fuel, oils and/or other petroleum products in excess of the amount set forth in paragraph (a) of this section, such agency or governing authority may purchase the commodity after having solicited and obtained at least two (2) competitive written bids, as defined in paragraph (b) of this section. If two (2) competitive written bids are not obtained the entity shall comply with the procedures set forth in paragraph (c) of this section. In the event any agency or governing authority shall have advertised for bids for the purchase of gas, diesel fuel, oils and other petroleum products and coal and no acceptable bids can be obtained, such agency or governing authority is authorized and directed to enter into any negotiations necessary to secure the lowest and best contract available for the purchase of such commodities.

(i) Road construction petroleum products price adjustment clause authorization. Any agency or governing authority authorized to enter into contracts for the construction, maintenance, surfacing or repair of highways, roads or streets, may include in its bid proposal and contract documents a price adjustment clause with relation to the cost to the contractor, including taxes, based upon an industry-wide cost index, of petroleum products including asphalt used in the performance or execution of the contract or in the production or manufacture of materials for use in such performance. Such industry-wide index shall be established and published monthly by the Mississippi Department of Transportation with a copy thereof to be mailed, upon request, to the clerks of the governing authority of each municipality and the clerks of each board of supervisors throughout the state. The price adjustment clause shall be based on the cost of such petroleum products only and shall not include any additional profit or overhead as part of the adjustment. The bid proposals or document contract shall contain the basis and methods of adjusting unit prices for the change in the cost of such petroleum products.

(j) State agency emergency purchase procedure. If the executive head of any agency of the state shall determine that an emergency exists in regard to the purchase of any commodities or repair contracts, so that the delay incident to giving opportunity for competitive bidding would be detrimental to the interests of the state, then the provisions herein for competitive bidding shall not apply and the head of such agency shall be authorized to make the purchase or repair. Total purchases so made shall only be for the purpose of meeting needs created by the emergency situation. In the event such executive head is responsible to an agency board, at the meeting next following the emergency purchase, documentation of the purchase, including a description of the commodity purchased, the purchase price thereof and the nature of the emergency shall be presented to the board and placed on the minutes of the board of such agency. The head of such agency shall, at the earliest possible date following such emergency purchase, file with the Department of Finance and Administration (i) a statement under oath certifying the conditions and circumstances of the emergency, and (ii) a certified copy of the appropriate minutes of the board of such agency, if applicable. On or before September 1 of each year, the State Auditor shall prepare and deliver to the Senate Fees, Salaries and Administration Committee, the House Fees and Salaries of Public Officers Committee and the Joint Legislative Budget Committee a report containing a list of all state agency emergency purchases and supporting documentation for each emergency purchases.

(k) Governing authority emergency purchase procedure. If the governing authority, or the governing authority acting through its designee, shall determine that an emergency exists in regard to the purchase of any commodities or repair contracts, so that the delay incident to giving opportunity for competitive bidding would be detrimental to the interest of the governing authority, then the provisions herein for competitive bidding shall not apply and any officer or agent of such governing authority having general or special authority therefor in making such purchase or repair shall approve the bill presented therefor, and he shall certify in writing thereon from whom such purchase was made, or with whom such a repair contract was made. At the board meeting next following the emergency purchase or repair contract, documentation of the purchase or repair contract, including a description of the commodity purchased, the price thereof and the nature of the emergency shall be presented to the board and shall be placed on the minutes of the board of such governing authority.

(l) Hospital purchase, lease-purchase and lease authorization.-

(i) The commissioners or board of trustees of any public hospital may contract with such lowest and best bidder for the purchase or lease-purchase of any commodity under a contract of purchase or lease-purchase agreement whose obligatory payment terms do not exceed five (5) years.

(ii) In addition to the authority granted in subparagraph (i) of this paragraph (l), the commissioners or board of trustees is authorized to enter into contracts for the lease of equipment or services, or both, which it considers necessary for the proper care of patients if, in its opinion, it is not financially feasible to purchase the necessary equipment or services. Any such contract for the lease of equipment or services executed by the commissioners or board shall not exceed a maximum of five (5) years' duration and shall include a cancellation clause based

on unavailability of funds. If such cancellation clause is exercised, there shall be no further liability on the part of the lessee. Any such contract for the lease of equipment or services executed on behalf of the commissioners or board that complies with the provisions of this subparagraph (ii) shall be excepted from the bid requirements set forth in this section.

(m) Exceptions from bidding requirements. Excepted from bid requirements are:

(i) Purchasing agreements approved by department. Purchasing agreements, contracts and maximum price regulations executed or approved by the Department of Finance and Administration.

(ii) Outside equipment repairs. Repairs to equipment, when such repairs are made by repair facilities in the private sector; however, engines, transmissions, rear axles and/or other such components shall not be included in this exemption when replaced as a complete unit instead of being repaired and the need for such total component replacement is known before disassembly of the component; provided, however, that invoices identifying the equipment, specific repairs made, parts identified by number and name, supplies used in such repairs, and the number of hours of labor and costs therefor shall be required for the payment for such repairs.

(iii) In-house equipment repairs. Purchases of parts for repairs to equipment, when such repairs are made by personnel of the agency or governing authority; however, entire assemblies, such as engines or transmissions, shall not be included in this exemption when the entire assembly is being replaced instead of being repaired.



(iv) Raw gravel or dirt. Raw unprocessed deposits of gravel or fill dirt which are to be removed and transported by the purchaser.

(v) Governmental equipment auctions. Motor vehicles or other equipment purchased from a federal or state agency or a governing authority at a public auction held for the purpose of disposing of such vehicles or other equipment. Any purchase by a governing authority under the exemption authorized by this subparagraph (v) shall require advance authorization spread upon the minutes of the governing authority to include the listing of the item or items authorized to be purchased and the maximum bid authorized to be paid for each item or items.

(vi) Intergovernmental sales and transfers. Purchases, sales, transfers or trades by governing authorities or state agencies when such purchases, sales, transfers or trades are made by a private treaty agreement or through means of negotiation, from any federal agency or authority, another governing authority or state agency of the State of Mississippi, or any state agency of another state. Nothing in this section shall permit such purchases through public auction except as provided for in subparagraph (v) of this section. It is the intent of this section to allow governmental entities to dispose of and/or purchase commodities from other governmental entities at a price that is agreed to by both parties. This shall allow for purchases and/or sales at prices which may be determined to be below the market value if the selling entity determines that the sale at below market value is in the best interest of the taxpayers of the state. Governing authorities shall place the terms of the agreement and any justification on the minutes, and state agencies shall obtain approval from the Department of Finance and Administration, prior to releasing or taking possession of the commodities.

(vii) Perishable supplies or food. Perishable supplies or foods purchased for use in connection with hospitals, the school lunch programs, homemaking programs and for the feeding of county or municipal prisoners.

(viii) Single source items. Noncompetitive items available from one (1) source only. In connection with the purchase of noncompetitive items only available from one (1) source, a certification of the conditions and circumstances requiring the purchase shall be filed by the agency with the Department of Finance and Administration and by the governing authority with the board of the governing authority. Upon receipt of that certification the Department of Finance and Administration or the board of the governing authority, as the case may be, may, in writing, authorize the purchase, which authority shall be noted on the minutes of the body at the next regular meeting thereafter. In those situations, a governing authority is not required to obtain the approval of the Department of Finance and Administration.

(ix) Waste disposal facility construction contracts. Construction of incinerators and other facilities for disposal of solid wastes in which products either generated therein, such as steam, or recovered therefrom, such as materials for recycling, are to be sold or otherwise disposed of; provided, however, in constructing such facilities a governing authority or agency shall publicly issue requests for proposals, advertised for in the same manner as provided herein for seeking bids for public construction projects, concerning the design, construction, ownership, operation and/or maintenance of such facilities, wherein such requests for proposals when issued shall contain terms and conditions relating to price, financial responsibility, technology, environmental compatibility, legal responsibilities and such other matters as are determined by the governing authority or agency to be appropriate for inclusion; and after responses to the request for proposals have been duly received, the governing authority or agency may select the most qualified proposal or proposals on the basis of price, technology and other relevant factors and from such proposals, but not limited to the terms thereof, negotiate and enter contracts with one or more of the persons or firms submitting proposals.

(x) Hospital group purchase contracts. Supplies, commodities and equipment purchased by hospitals through group purchase programs pursuant to Section 31-7-38.

(xi) Information technology products. Purchases of information technology products made by governing authorities under the provisions of purchase schedules, or contracts executed or approved by the Mississippi Department of Information Technology Services and designated for use by governing authorities.

(xii) Energy efficiency services and equipment. Energy efficiency services and equipment acquired by school districts, community and junior colleges, institutions of higher learning and state agencies or other applicable governmental entities on a shared-savings, lease or lease-purchase basis pursuant to Section 31-7-14.

(xiii) Municipal electrical utility system fuel. Purchases of coal and/or natural gas by municipally-owned electric power generating systems that have the capacity to use both coal and natural gas for the generation of electric power.

(xiv) Library books and other reference materials. Purchases by libraries or for libraries of books and periodicals; processed film, video cassette tapes, filmstrips and slides; recorded audio tapes, cassettes and diskettes; and any such items as would be used for teaching, research or other information distribution; however, equipment such as projectors, recorders, audio or video equipment, and monitor televisions are not exempt under this subparagraph.

(xv) Unmarked vehicles. Purchases of unmarked vehicles when such purchases are made in accordance with purchasing regulations adopted by the Department of Finance and Administration pursuant to Section 31-7-9(2).

(xvi) Election ballots. Purchases of ballots printed pursuant to Section

23-15-351.

(xvii) Multichannel interactive video systems. From and after July 1, 1990, contracts by Mississippi Authority for Educational Television with any private educational institution or private nonprofit organization whose purposes are educational in regard to the construction, purchase, lease or lease-purchase of facilities and equipment and the employment of personnel for providing multichannel interactive video systems (ITSF) in the school districts of this state.

(xviii) Purchases of prison industry products. From and after January 1, 1991, purchases made by state agencies or governing authorities involving any item that is manufactured, processed, grown or produced from the state's prison industries.

(xix) Undercover operations equipment. Purchases of surveillance equipment or any other high-tech equipment to be used by law enforcement agents in undercover operations, provided that any such purchase shall be in compliance with regulations established by the Department of Finance and Administration.

(xx) Junior college books for rent. Purchases by community or junior colleges of textbooks which are obtained for the purpose of renting such books to students as part of a book service system.

(xxi) Certain school district purchases. Purchases of commodities made by school districts from vendors with which any levying authority of the school district, as defined in Section 37-57-1, has contracted through competitive bidding procedures for purchases of the same commodities.

(xxii) Garbage, solid waste and sewage contracts. Contracts for garbage collection or disposal, contracts for solid waste collection or disposal and contracts for sewage collection or disposal.

(xxiii) Municipal water tank maintenance contracts. Professional maintenance program contracts for the repair or maintenance of municipal water tanks, which provide professional services needed to maintain municipal water storage tanks for a fixed annual fee for a duration of two (2) or more years.

(xxiv) Purchases of Mississippi Industries for the Blind products. Purchases made by state agencies or governing authorities involving any item that is manufactured, processed or produced by the Mississippi Industries for the Blind.

(xxv) Purchases of state-adopted textbooks. Purchases of state-adopted textbooks by public school districts.

(xxvi) Certain purchases under the Mississippi Major Economic Impact Act. Contracts entered into pursuant to the provisions of Section 57-75-9(2) and (3).

(xxvii) Used heavy or specialized machinery or equipment for installation of soil and water conservation practices purchased at auction. Used heavy or specialized machinery or equipment used for the installation and implementation of soil and water conservation practices or measures purchased subject to the restrictions provided in Sections 69-27-331 through 69-27-341. Any purchase by the State Soil and Water Conservation Commission under the exemption authorized by this subparagraph shall

require advance authorization spread upon the minutes of the commission to include the listing of the item or items authorized to be purchased and the maximum bid authorized to be paid for each item or items.

(xxviii) Hospital lease of equipment or services. Leases by hospitals of equipment or services if the leases are in compliance with paragraph (1)(ii).

(n) Term contract authorization. All contracts for the purchase of:

(i) All contracts for the purchase of commodities, equipment and public construction (including, but not limited to, repair and maintenance), may be let for periods of not more than sixty (60) months in advance, subject to applicable statutory provisions prohibiting the letting of contracts during specified periods near the end of terms of office. Term contracts for a period exceeding twenty-four (24) months shall also be subject to ratification or cancellation by governing authority boards taking office subsequent to the governing authority board entering the contract.

(ii) Bid proposals and contracts may include price adjustment clauses with relation to the cost to the contractor based upon a nationally published industry-wide or nationally published and recognized cost index. The cost index used in a price adjustment clause shall be determined by the Department of Finance and Administration for the state agencies and by the governing board for governing authorities. The bid proposal and contract documents utilizing a price adjustment clause shall contain the basis and method of adjusting unit prices for the change in the cost of such commodities, equipment and public construction.

(o) Purchase law violation prohibition and vendor penalty. No contract or purchase as herein authorized shall be made for the purpose of

circumventing the provisions of this section requiring competitive bids, nor shall it be lawful for any person or concern to submit individual invoices for amounts within those authorized for a contract or purchase where the actual value of the contract or commodity purchased exceeds the authorized amount and the invoices therefor are split so as to appear to be authorized as purchases for which competitive bids are not required. Submission of such invoices shall constitute a misdemeanor punishable by a fine of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00), or by imprisonment for thirty (30) days in the county jail, or both such fine and imprisonment. In addition, the claim or claims submitted shall be forfeited.

(p) Electrical utility petroleum-based equipment purchase procedure. When in response to a proper advertisement therefor, no bid firm as to price is submitted to an electric utility for power transformers, distribution transformers, power breakers, reclosers or other articles containing a petroleum product, the electric utility may accept the lowest and best bid therefor although the price is not firm.

(q) Fuel management system bidding procedure. Any governing authority or agency of the state shall, before contracting for the services and products of a fuel management or fuel access system, enter into negotiations with not fewer than two (2) sellers of fuel management or fuel access systems for competitive written bids to provide the services and products for the systems. In the event that the governing authority or agency cannot locate two (2) sellers of such systems or cannot obtain bids from two (2) sellers of such systems, it shall show proof that it made a diligent, good-faith effort to locate and negotiate with two (2) sellers of such systems. Such proof shall include, but not be limited to, publications of a request for proposals and letters soliciting negotiations and bids. For purposes of this paragraph (q), a fuel management or fuel access system is an automated system of acquiring fuel for vehicles as well as management reports detailing fuel use by vehicles and drivers, and the term "competitive written bid" shall have the meaning as defined in paragraph (b) of this section. Governing authorities and agencies shall be exempt from this process when contracting for the services and products of a fuel management or fuel access systems under the terms of a state contract established by the Office of Purchasing and Travel.

(r) Solid waste contract proposal procedure. Before entering into any contract for garbage collection or disposal, contract for solid waste collection or disposal or contract for sewage collection or disposal, which involves an expenditure of more than Fifty Thousand Dollars (\$50,000.00), a governing authority or agency shall issue publicly a request for proposals concerning the specifications for such services which shall be advertised for in the same manner as provided in this section for seeking bids for purchases which involve an expenditure of more than Ten Thousand Dollars (\$10,000.00). Any request for proposals when issued shall contain terms and conditions relating to price, financial responsibility, technology, legal responsibilities and other relevant factors as are determined by the governing authority or agency to be appropriate for inclusion; all factors determined relevant by the governing authority or agency or required by this paragraph (r) shall be duly included in the advertisement to elicit proposals. After responses to the request for proposals have been duly received, the governing authority or agency shall select the most qualified proposal or proposals on the basis of price, technology and other relevant factors and from such proposals, but not limited to the terms thereof, negotiate and enter contracts with one or more of the persons or firms submitting proposals. If the governing authority or agency deems none of the proposals to be qualified or otherwise acceptable, the request for proposals process may be reinitiated. Notwithstanding any other provisions of this paragraph, where a county with at least thirty-five thousand (35,000) nor more than forty thousand (40,000) population, according to the 1990 federal decennial census, owns or operates a solid waste landfill, the governing authorities of any other county or municipality may contract with the governing authorities of the county owning or operating the landfill, pursuant to a resolution duly adopted and spread upon the minutes of each governing authority involved, for garbage or solid waste collection or disposal services through contract negotiations.

(s) Minority set aside authorization. Notwithstanding any provision of this section to the contrary, any agency or governing authority, by order placed on its minutes, may, in its discretion, set aside not more than twenty percent (20%) of its anticipated annual expenditures for the purchase of commodities from minority businesses; however, all such set-aside purchases shall comply with all purchasing regulations promulgated by the Department of Finance and Administration and shall be subject to bid requirements under this section. Set-aside purchases for



which competitive bids are required shall be made from the lowest and best minority business bidder. For the purposes of this paragraph, the term "minority business" means a business which is owned by a majority of persons who are United States citizens or permanent resident aliens (as defined by the Immigration and Naturalization Service) of the United States, and who are Asian, Black, Hispanic or Native American, according to the following definitions:

(i) "Asian" means persons having origins in any of the original people of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.

(ii) "Black" means persons having origins in any black racial group of Africa.

(iii) "Hispanic" means persons of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race.

(iv) "Native American" means persons having origins in any of the original people of North America, including American Indians, Eskimos and Aleuts.

(t) Construction punch list restriction. The architect, engineer or other representative designated by the agency or governing authority that is contracting for public construction or renovation may prepare and submit to the contractor only one (1) preliminary punch list of items that do not meet the contract requirements at the time of substantial completion and one (1) final list immediately before final completion and final payment.

(u) Purchase authorization clarification. Nothing in this section shall be construed as authorizing any purchase not authorized by law.

Sources: Codes, 1942, § 9024-08; Laws, 1962, ch. 497, § 8; Laws, 1980, ch. 440, § 6; Laws, 1981, ch. 306, § 2; Laws, 1982, ch. 449, § 1; Laws, 1983, ch. 330, § 3, ch. 341; Laws, 1984, ch. 363; Laws, 1984, ch. 480, § 3; Laws, 1984, ch. 488, § 158; Laws, 1985, ch. 493, § 6; Laws, 1986, ch. 398; Laws, 1986, ch. 489, § 14; Laws, 1988, ch. 351; Laws, 1988, ch. 589, § 23; Laws, 1988 Ex Sess, ch. 14, § 65; Laws, 1989, ch. 349, § 1; Laws, 1989, ch. 394, § 3; Laws, 1990, ch. 534, § 27; Laws, 1990, ch. 545, § 2; Laws, 1990, ch. 561, § 2; Laws, 1990, 1st Ex Sess, ch. 51, § 2; Laws, 1991, ch. 337, § 1; Laws, 1991, ch. 523, § 1; Laws, 1992, ch. 571 § 3; Laws, 1993, ch. 418, § 2; Laws, 1993, ch. 617, § 12; Laws, 1993, ch. 556, § 3; Laws, 1994, ch. 471, § 2; Laws, 1994 Ex Sess, ch. 26, § 22; Laws, 1996, ch. 495, § 1; Laws, 1997, ch. 593, § 1; Laws, 1998, ch. 574, § 6; Laws, 1999, ch. 407, § 1; Laws, 1999, ch. 459, § 1; Laws, 2000, ch. 428, § 3; Laws, 2000, ch. 593, § 9; Laws, 2000, 3rd Ex Sess, ch. 1, § 13; Laws, 2001, ch. 333, § 2; Laws, 2002, ch. 563, § 1, eff from and after July 1, 2002.

© 2002 by the State of Mississippi and Matthew Bender & Company, Inc., a member of the LexisNexis Group. All rights reserved. Use of this product is subject to the restrictions and terms and conditions of the Matthew Bender Master Agreement.

**YAZOO COUNTY SCHOOL DISTRICT  
BILLED ENTITY #128639  
APPEAL DATED March 24, 2005**

**ATTACHMENT #11**



# Quotation

Quote Number: 0017BDER

## SYNERGETICS

Diversified Computer Services

P.O. Box 80264  
Starkville, MS 39760  
Phone: (662) 323-9484  
Fax: (662) 324-1876  
www.SynergeticsDCS.com

### Quoted to:

Yazoo County School District  
P.O. Box 1088  
119 West Jefferson Street  
Yazoo City, MS 39194

Contact: Mickey Rivers  
Phone: 662-746-6571  
Fax: 662-746-9270

Terms Net 30 Days

Description	Unit Price	Qty	Extension
YAZOO COUNTY SCHOOL DISTRICT YEAR 2003 ERATE YAZOO COUNTY JUNIOR HIGH SCHOOL PBX SYSTEM ATTN: MICKEY RIVERS			
3COM NBX 100 Chassis (Mfg PN: 3C10111; Open Market)	\$ 942.50	1.00	\$ 942.50
3COM NBX 100 Call Processor (Mfg PN: 3C10110; Open Market)	\$ 1,755.00	1.00	\$ 1,755.00
3COM NBX Analog Line Card (Mfg PN: 3C10114; Open Market)	\$ 1,456.00	2.00	\$ 2,912.00
3COM NBX Analog Adapter Mfg PN: 3C10120	\$ 360.00	2.00	\$ 720.00
3COM 12 Port Ethernet Power Source (Mfg PN: 3CS-GA74-NBX-07E; Open Market)	\$ 1,232.00	2.00	\$ 2,464.00
Installation and Configuration of 3Com NBX System (Open Market)	\$ 65.00	24.00	\$ 1,560.00

Subtotal	\$ 10,353.50
Sales Tax	
<b>Total</b>	<b>\$ 10,353.50</b>

Kay Hall

Dec 3, 2002

Quote is valid for 45 days

Thank you for your interest in Synergetics Diversified Computer Services.  
We look forward to the opportunity of doing business with you

6092 US Highway  
Hattiesburg, MS 39401  
Phone: (601) 544-6092  
Fax: (601) 544-6093

Yazoo County School District  
Attention: Mickey Rivers  
Reference:  
PBX System

[illegible]

SUBTOTAL:	\$10,554.00
TAX:	
TOTAL:	\$10,554.00

Authorized Signature  
December 5, 2002

\* Quote good for 2003 Erate Application

Thank you for your interest in Computer Resources.  
We look forward to the opportunity of doing business with you.

**YAZOO COUNTY SCHOOL DISTRICT  
BILLED ENTITY #128639  
APPEAL DATED March 24, 2005**

**ATTACHMENT #12**

## CHAPTER III

## SOURCE SELECTION AND CONTRACT FORMATION

3.101 Purchasing Procedures.3.101.01 Definition of Terms Used in this Section.

- (1) Established Catalog Price means the price included in a catalog, price list, schedule, or other form that:
  - (a) is regularly maintained by a manufacturer or contractor;
  - (b) is either published or otherwise available for inspection by customers; and
  - (c) states price at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.
- (2) Invitation for Bids means all documents, whether attached or incorporated by reference, utilized for soliciting bids.
- (3) Purchase Description means the words used in a solicitation to describe the commodities, equipment, or construction to be purchased and includes specifications attached to, or made a part of, the solicitation.
- (4) Request for Proposals means all documents, whether attached or incorporated by reference, utilized for soliciting proposals.
- (5) Responsible Bidder or Offerer means a person who has the capability in all respects to perform fully the contract requirements and the integrity and reliability which will assure good faith performance.
- (6) Responsive Bidder means a person who has submitted a bid which conforms in all material respects to the Invitation for Bids.

3.101.02 Exemptions Not Requiring Approval.

Unless otherwise ordered by regulation of the Public Procurement Review Board, the following listed items are exempt from the competitive bid process and do not require approval of the Office of Purchasing and Travel except as may be required when submitting a Form 873.

- (1) Transfer, sale, or exchange of personal property between state agencies or between state agencies and governing authorities.
- (2) Service contracts provided by businesses or persons which do not include the acquisition of a commodity.
- (3) Transportation of person or things. This shall be applicable to travel by public conveyance and freight on things. This exemption shall not apply to the travel contracts established by the Office of Purchasing and Travel.
- (4) Postage.
- (5) Workers Compensation Insurance and Personnel Bond required by law.
- (6) Utilities.
- (7) Commodities purchased for resale.
- (8) Highway right-of-way and highway construction contracts governed by specific laws dealing with such contracts.
- (9) Food and lodging reimbursable on a travel voucher.

### 3.207 Competitive Selection Procedures for Services. (where applicable)

- (1) Conditions for Use. The services specified in Section 3.207.01 (Application) shall be procured in accordance with this Section, except as authorized under Section 3.205 (Sole-Source Procurement) or Section 3.206 (Emergency Procurements).
- (2) Statements of Qualifications. Persons engaged in providing the types of services specified in Section 3.207.01 (Application) may submit statements of qualifications and expressions of interest in providing such types of services. The Procurement Officer may specify a uniform format for statements of qualifications. Persons may amend these statements at any time by filing a new statement.
- (3) Public Announcement and Form of Request for Proposals. Adequate notice of the need for such services may be given by the purchasing agency through a Request for Proposals. The Request for Proposals shall describe the services required, list the type of information and data required of each offerer, and state the relative importance of particular qualifications. This shall not be interpreted to require published notice as is set forth in Section 31-7-13 (c) Mississippi Code of 1972, Annotated. Compliance with Section 31-7-13 (c) Mississippi Code of 1972, Annotated, though not required is recommended.
- (4) Discussions. The head of the purchasing agency or a designee of such officer may conduct discussions with any offerer who has submitted a proposal to determine such offerer's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerers.
- (5) Award. Award shall be made to the offerer determined in writing by the head of the purchasing agency or a designee of such officer to be best qualified based on the evaluation factors set forth in the Request for Proposals, and negotiation of compensation determined to be fair and reasonable. If compensation cannot be agreed upon with the best qualified offerer, then negotiations will be formally terminated with the selected offerer. If proposals were submitted by one or more other offerers determined to be qualified, negotiations may be conducted with such other offerer or offerers, in the order of their respective qualification ranking, and the contract may be awarded to the offerer then ranked as best qualified if the amount of compensation is determined to be fair and reasonable.

#### 3.207.01 Application.

The provisions of this regulation are presented for information and guidance only. Agencies under the authority of the Personal Services Contract Review Board shall use the guidelines set forth in the Personal Services Contract Procurement Regulations. Mississippi law does not require other agencies to bid for service contracts. (This is meant to include those contracts that do not include the acquisition of a commodity.) Even though there is no statutory requirement for soliciting competition when contracting for services, it is always appropriate to do so, and this regulation is provided as a guide in providing the procedures to be followed when contracting for services.



## COMMENTARY:

Certain professional service contracts may be exempt from this process. Namely those services provided by a professional whose profession is regulated by laws of the State of Mississippi; i.e., Physicians, Lawyers, Veterinarians, Architects, Engineers, and Dentists. (This is not intended to be a complete list).

3.207.02 Determinations Required Prior to Use of Competitive Selection Procedures.

For the purpose of procuring the services specified in Section 3.207.01 (Application), any using agency of this State may act as a purchasing agency except as otherwise provided by law. (The purchasing agency may consult with the Chief Procurement Officer or a designee of such office when procuring such services.) In either case, the Procurement Officer or his designee shall determine in writing, prior to contracting for any such services:

- (1) That the services to be acquired are services specified in Section 3.207.01.
- (2) That a reasonable inquiry has been conducted, which shall include requesting the department to report on the availability of such personnel, and the using agency does not have the personnel nor resources to perform the services required under the proposed contract, or that the service can be performed more economically by other than state personnel.
- (3) The nature of the relationship to be established between the using agency and the contractor by the proposed contract.
- (4) That the using agency has developed and fully intends to implement a written plan for utilizing such services which will be included in the contractual statement of work.

3.207.03 Request for Proposals.

3.207.03.1 Contents. The Request for Proposals shall be in the form specified by the Procurement Officer and contain at least the following information:

- (1) The type of services required.
- (2) A description of the work involved.
- (3) An estimate of when and for how long the services will be required.
- (4) The type of contract to be used.
- (5) A date by which proposals for the performance of the services shall be submitted.
- (6) A statement that the proposals shall be in writing.
- (7) A statement that offerers may designate those portions of the proposals which contain trade secrets or other proprietary data which may remain confidential.
- (8) A statement of the minimum information that the proposal shall contain, to include:
  - (a) the name of the offerer, the location of the offerer's principal place of business and, if different, the place of performance of the proposed contract;
  - (b) if deemed relevant by the Procurement Officer, the age of the

**YAZOO COUNTY SCHOOL DISTRICT  
BILLED ENTITY #128639  
APPEAL DATED March 24, 2005**

**ATTACHMENT #13**

## **EXHIBIT A**

Synergetics will provide the Client with the following Network Maintenance services for the term of one year as defined in the Agreement.

### **ANNUAL NETWORK MAINTENANCE AGREEMENT**

This Network Maintenance Agreement provides for an annual contract for telephone, remote, and on-site network maintenance and support. The Maintenance Agreement Type defines the level of support personnel required. The Minimum Monthly Commitment establishes the Client commitment for the minimum number of hours to be used per month during the contract period. The Class defines the percentage discount from standard hourly rates based on the Monthly Commitment.

<b>80/20 MAINTENANCE CONTRACT</b>					
<b>Class</b>	<b>% Off Standard Rate</b>	<b>Monthly Commitment</b>	<b>Hourly Rate</b>	<b>Monthly Amount</b>	<b>Annual Amount</b>
0	0%	0	\$ 65.00	N/A	N/A
1	5%	32	\$ 62.00	\$ 1,984.00	\$ 23,808.00
2	10%	64	\$ 59.00	\$ 3,776.00	\$ 45,312.00
3	15%	96	\$ 55.00	\$ 5,280.00	\$ 63,360.00
4	20%	128	\$ 52.00	\$ 6,656.00	\$ 79,872.00

<b>NETWORK ENGINEER MAINTENANCE CONTRACT</b>					
<b>Class</b>	<b>% Off Standard Rate</b>	<b>Monthly Commitment</b>	<b>Hourly Rate</b>	<b>Monthly Amount</b>	<b>Annual Amount</b>
0	0%	0	\$ 95.00	N/A	N/A
1	5%	4	\$ 90.00	\$ 360.00	\$ 4,320.00
2	10%	8	\$ 86.00	\$ 688.00	\$ 8,256.00
3	15%	12	\$ 81.00	\$ 972.00	\$ 11,664.00
4	20%	16	\$ 76.00	\$ 1,216.00	\$ 14,592.00

Selected Maintenance Agreement Type is **80/20 Maintenance Contract**.

Selected Minimum Monthly Commitment is **96 hours/month**.

Agreement Hourly Rate is **\$55.00 per/hour**.

Agreement Annual Cost is **\$63,360.00**

Payment made on an annual basis at the start of each year for the term of the Agreement. Hours used up to the monthly amount will incur no additional charge. Hours may be used in excess of the monthly amount and will be billed at the Agreement Hourly Rate. Unused monthly hours may be carried over from month to month and applied to decrease any excess hours used in subsequent months. Unused hours at the end of the Agreement term will be forfeited.

Any services, hardware, software, and/or incidental items supplied by Synergetics in addition to those shown above will result in additional costs. A cost estimate for additional items will be provided and the customer will approve such items prior to incurring the expenditure.

January 8, 2003




## Server Maintenance Contract

EPL#	Product	Description
3270-A-MISC	CNE Labor	
Total		

Qty	Price	Extended Price
500	\$ 100.00	\$ 50,000.00
		\$ 50,000.00

Server Maint \$50,000  
 Cable Maint \$62,900  
\$112,900

  
 Hugh D. Brewer, Jr.

12/5/2002

226 E. Main  
 Senatobia, MS 38668  
 1-662-562-7484 Phone  
 1-800-301-7484 Toll Free  
 1-662-562-5164 Fax



## Yazoo High School Cable Plant Maintenance

EPL#	Product	Description
3276-A-misc	Cable Crew for Maintenance	
Total		

Qty	Price	Extended Price
250	\$ 85.00	\$ 21,250.00
		\$ 21,250.00

Hugh D. Brewer, Jr.

12/5/2002

226 E. Main  
Senatobia, MS 38686  
1-662-562-7484 Phone  
1-800-381-7484 Toll Free  
1-662-562-5104 Fax



## Lynwood Cable Plant Maintenance

EPL#	Product	Description	Qty	Price	Extended Price
3276-A-misc	Cable Crew for Maintenance		250	\$ 85.00	\$ 21,250.00
Total					\$ 21,250.00

Hugh D. Brewer, Jr.

12/5/2002

226 E. Main  
Sensatobia, MS 38668  
1-662-562-7484 Phone  
1-800-301-7484 Toll Free  
1-662-562-5184 Fax



## Bentonia Gibbs Cable Plant Maintenance

EPL#	Product	Description
3276-A-misc	Cable Crew for Maintenance	
Total		

Qty	Price	Extended Price
240	\$ 85.00	\$ 20,400.00
		\$ 20,400.00

Hugh D. Brewer, Jr

12/5/2002

226 E. Main  
Senatobia, MS 38688  
1-662-562-7484 Phone  
1-800-301-7484 Toll Free  
1-662-562-5184 Fax